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| APPLICATION NO. | FILING I | DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO | |
|-----------------------------------|----------|--------------------|----------------------|---------------------|-----------------|--|
| 10/628,199 07/28/2003 | | Edward L. Galloway | 1779-8 6113 | | | |
| 7590 09/11/2006 | | | | EXAMINER | | |
| John S. Egbert | | | | NGUYEN, VI X | | |
| Harrison & Egb 412 Main Street | | ART UNIT | PAPER NUMBER | | | |
| Houston, TX | | 3734 | | | | |

DATE MAILED: 09/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary Examiner | | | Applicat | on No. | Applicant(s) | | | | | |
|---|---|---|----------------------------|--------------------------|----------------------|--------------|--|--|--|--|
| Victor X. Nguyen 3734 | | | 10/628,1 | 99 | GALLOWAY ET AL: | | | | | |
| - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Extensions of time may be a valished the provisions of 37 CFR 1.18(b), the rower, however, way a reply be timedy filled # NO period for reply is pecified above, the maintum studiotry period will apply and will exply a fill with the filled that the provision of the provision of the communication of | | Office Action Summary | Examine | r | Art Unit | | | | | |
| A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. ■ Exercisions of lines may be available under the provisions of 37 CFR 1.35(a). In or event, however, may a reply be limity filed ■ Exercision of lines may be available under the provisions of 37 CFR 1.35(a). In or event, however, may a reply be limity filed ■ ITNO period for reply is specified above, the maximum stutionry priod value grower, event, however, may a reply be limity filed ■ ITNO period for reply the priod drove, the maximum stutionry priod value grower, the provision of the reply will, by a fault, excess the application to become ARANDONED (25 U.S.C. § 133). Any reply received by the Office into the three homes and the remaining date of this communication, even if limity filed, may reduce any example to the maximum status of the provision of the communication of the communication, even if limity filed, may reduce any example to the maximum status of the provision of the communication of the communication, even if limity filed, may reduce any example to the communication of the communication, even if limity filed, may reduce any example to the communication of the provision of the communication of the | | | Victor X. | Nguyen | 3734 | | | | | |
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| 1)⊠ Responsive to communication(s) filed on 28 July 2003. 2a)☐ This action is FINAL. 2b)⊠ This action is non-final. 3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)☑ Claim(s) | A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any | | | | | | | | | |
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| | 3) 🔲 Infor | mation Disclosure Statement(s) (PTO-1449 or I | | 5) Notice of Information | | TO-152) | | | | |

Application/Control Number: 10/628,199 Page 2

Art Unit: 3734

DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-12 and 19, drawn to a skin incision device including a housing, a blade,
 a spring means for moving the blade, classified in class 606, subclass 167.
- II. Claims 13-18, drawn to a skin incision device including a carriage element means positioned within the housing, classified in class 600, subclass 583.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the combination does not require the carriage element means positioned within the housing. The subcombination has separate utility as a device which can place needle into a skin at a correct depth. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48 (b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48 (b) and by the fee required under 37 CFR 1.17 (i).

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Applicant is advised that the reply to this requirement to be complete must include an

election of the invention to be examined even though the requirement is traversed (37 CFR

1.143).

Conclusion

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Victor X. Nguyen whose telephone number is (571) 272-4699.

The examiner can normally be reached on M-F (8-4.30 P.M).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Michael Hayes can be reached on (571) 272-4697. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M/Hayer Victor X Nguyen

Examiner

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